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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,774	01/22/2002	Eickhart Goebel	P/4074-5	4262
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OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
			EXAMINER GARBER, CHARLES D	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,774

Applicant(s)

GOEBEL, EICKHART

Examiner

Charles Garber

Art Unit

2856

AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 10 and 11 is/are allowed.
- 6) ☒ Claim(s) 12, 13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 10, 11, 12, 15 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 103() as being unpatentable over Parker et al. (US005396436A) in view of Mazziotti (US005368523A)

Regarding currently amended claim 12, Parker discloses a calibration arrangement to calibrate a wheel balancing apparatus (which must measure unbalance in order to effect balancing) (title). The apparatus includes a spindle 13a or measuring shaft having a spindle axis of rotation shown in figures 5 and 6 which is a measuring

Art Unit: 2856

axis extending longitudinally therethrough, a balancer base 12 which is a supporting arrangement to support the measuring shaft rotatably about the measuring axis; spindle 13a is also a balanced test rotary member integral, which is essentially a shoulder for mounting a vehicle wheel in a position on the shaft, with the measuring shaft.

Parker however does not expressly recite the shoulder is separate and mounted to the shaft.

Mazziotti teaches a hub or flange may be structurally integral or a separate companion flange member. (column 2 lines 48-51)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount a flange on a shaft or alternatively make a flange an integral portion of the shaft as having alternative ways of forming a structure gives a designer advantageously more design choices.

Parker further discloses holes in the spindle 13A (shown as dashed lines in the outermost flange portion) which are for affixing calibration masses at points P1, P2 and P3 in Planes 1 and 2 which is equivalent to a fixing arrangement to fix first and second calibration masses to the test rotary member at respective fixing locations situated in different axial calibration planes.

A "pair of piezoelectric transducers 19 and 21 (or other suitable sensors such as strain gauges) coupled to spindle 13 and mounted on the balancer base 12" are measuring sensors adapted to measure forces operative on the measuring shaft when the test rotary member rotates.

The electrical circuitry shown in figure 3 is an evaluation means connected to the transducers and adapted to evaluate the measured forces.

The recitation "in at least two calibration runs to calibrate the unbalance measuring apparatus" which is an intended use of the evaluation means has not been given patentable weight because the electrical circuitry depicted in figure 3 of the reference may be used for the same purpose. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations *Ex parte Masham* 2 USPQ2d 1647 1987).

As for currently amended claim 13, weights located at positions P1 and P3 for determining the couple calibrations signal are arranged displaced relative to each other through an angle of 180° about the measuring axis. Parker explains the couple calibration signal components L_{cx} , L_{cy} , R_{cx} and R_{cy} may be obtained directly in one spin with two masses mounted at points P1 and P3 located in axial planes, Calibration Reference Plane 1 and Calibration Reference Plane 2. (figure 5 and column 11 line 41 to column 12 line 16 especially column 12 lines 12-16)

As for new claim 15, which is substantively equivalent to claim 12 but for a driving arrangement to rotate the measuring shaft, Parker discloses spindle 13 drives the measuring spindle 13A by a suitable drive mechanism such as an electric motor M as shown in figure 2.

Allowable Subject Matter

Amended claims 1-7, 10 and 11 are allowed.

Reasons for allowance of claim 1 and claims depending therefrom are substantially the same as those offered by Applicant in paper number 6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Garber whose telephone number is (703) 308-6062. The examiner can normally be reached on 6:30 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7725 for regular communications and (703) 308-7725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.

cdg
October 17, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800